



TOWN OF VIEW ROYAL

BYLAW NO. 1069

A BYLAW TO REGULATE THE ALTERING, CUTTING, DAMAGING OR REMOVING OF TREES WITHIN THE TOWN OF VIEW ROYAL

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BYLAW NO. 1069

**A BYLAW TO REGULATE THE ALTERING, CUTTING, DAMAGING OR REMOVING OF TREES
WITHIN THE TOWN OF VIEW ROYAL**

NOW THEREFORE the Council of the Town of View Royal in open meeting assembled enacts as follows:

SECTION 1: GENERAL

Citation and Previous Bylaw Repeal

- 1.1 This Bylaw may be cited as “Tree Protection Bylaw No. 1069, 2022”.
- 1.2 “Tree Protection Bylaw No. 695, 2009” and its amendments are hereby repealed.

Administration

- 1.3 Provisions directing or empowering any officer of the Town to do any act or thing, or otherwise referencing the officer by the officer’s official title, also direct or empower that officer’s successors in office, the officer’s lawful deputy or designate and such person as the Council may by bylaw or resolution designate to act in the officer’s place.
- 1.4 The requirements of the Bylaw are supplementary to the requirements of any other Town bylaw.
- 1.5 Section headings do not form part of this Bylaw and are included for convenience only.

Severability

- 1.6 If any court of competent jurisdiction declares any phrase, sentence, or section of this Bylaw invalid, the invalid portion must be severed, and the severance does not affect the validity of the remainder.

SECTION 2: DEFINITIONS

- 2.1 In this Bylaw:

ALTER means to:

- i. remove the top portion of a Tree;
- ii. remove bark from a tree or Damage any trunk or piece of Tree bark;
- iii. remove any Branch that is 10 centimeters or more in diameter;
- iv. Cut, Damage, or destroy by any means the roots of a Tree within the Protected Root Zone;
- v. change the drainage characteristics of the area within the Drip Line of a Tree.

Alteration and Altered shall have the same meaning as Alter.

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APPLICANT	means the Owner or agent for the Owner who is applying to the Town for a Tree Permit.
BOUNDARY TREE	means a Tree with any part of its trunk or trunk flare crossing a property line, including where the adjacent property is a highway, park, or other Town-owned property.
BRANCH	means the lateral secondary woody growth originating from the stem of a tree.
BUSINESS DAY	means a day other than a Saturday, Sunday or statutory holiday.
BYLAW ENFORCEMENT OFFICER	means the person appointed, from time to time, as the Town's bylaw enforcement officer, and shall include any acting or assisting officer.
CERTIFIED ARBORIST	means a person: <ul style="list-style-type: none">i. certified as an arborist by the International Society of Arboriculture;ii. qualified as a tree risk assessor by the International Society of Arboriculture; oriii. qualified by the Province of British Columbia as a wildlife/danger tree assessor.
COUNCIL	means the elected Council of the Town of View Royal.
CUT	means to kill or remove a Tree by any means and includes the Topping of a tree, the removal of any Branch of a tree having a diameter of more than 10 centimeters, and the pulling up, pushing or pulling over, or otherwise felling of a Tree. Cutting shall have the same meaning as Cut.
DAMAGE	means any action which will cause a Tree to die or to decline, including but not limited to ringing, poisoning, burning, Topping or excessive Pruning. Damaging and Damaged shall have the same meaning as Damage.
D.B.H. (Diameter at Breast Height)	means: <ul style="list-style-type: none">i. the diameter of a Tree at 1.3 meters above the highest point of ground at the Tree's base.ii. for multi-stemmed Trees, the diameter of a Tree having multiple trunks is the sum of:<ul style="list-style-type: none">a. 100% of the largest trunk, andb. 60% of the diameter of each additional trunk.
DIRECTOR	means the Town's Director of Engineering or a person acting or delegated to act in that capacity.
DRIP LINE	means the radius of the outermost branch tips of a Tree.
OWNER	means the registered owner of a Parcel subject to this Bylaw.

PARCEL	has the same meaning as defined in the <i>Community Charter</i> ;
PROTECTED ROOT ZONE	means whichever is greater of: <ul style="list-style-type: none">i. the area of land surrounding the trunk of the Tree that contains the bulk of the critical root system of the Tree, as defined by a Certified Arborist; orii. the radius of land surrounding the trunk of a Tree, calculated by multiplying the diameter of the tree trunk D.B.H. by 18.
PROTECTED TREE	see section 2.2 for definition.
QUALIFIED GEOTECHNICAL ENGINEER	means a person: <ul style="list-style-type: none">i. registered or licensed as a professional engineer with the Association of Professional Engineers and Geoscientists of the Province of British Columbia, pursuant to the Professional Governance Act SBC 2018 c. 47, as amended from time to time; andii. with declared expertise in the field of geosciences.
PRUNE	means to Alter or Cut any Branch under 10 centimeters in diameter. Pruning and Pruned shall have the same meaning as Prune.
REPLACEMENT TREE	means a Tree planted pursuant to section 5.17 that has at least one of the following sizes: <ul style="list-style-type: none">i. a height of at least 2.0 meters;ii. a caliper of at least 5 centimeters (at 30cm above the ground);
STEEP SLOPE	means any part of a Parcel of land where the grade of incline is 2:1 or greater.
TOPPING	means the removal of whole tops of Trees or large branches and/or trunks from the tops of Trees, leaving stubs or lateral branches that are too small to assume the role of a terminal leader.
TOWN	means the Town of View Royal.
TREE	means a woody perennial plant that grows from the ground usually with a single permanent, usually tall, woody, self-supporting trunk or stem, and an elevated crown of branches and foliage.
TREE PERMIT (PERMIT)	means written permission from the Director authorizing the Alteration, Cutting or Pruning of one or more Trees from a specified Parcel of land or the public road allowance.
WATERCOURSE	means any natural drainage course or source of water, whether usually containing water or not, and includes any sea, lake, river, creek, spring, ravine, swamp, gulch, or source of ground water whether enclosed or in a conduit.

Protected Trees

2.2 PROTECTED TREES include:

- 2.2.1 Garry Oak (*Quercus garryana*);
- 2.2.2 Arbutus (*Arbutus menziesii*);
- 2.2.3 Pacific Dogwood (*Cornus nuttallii*);
- 2.2.4 Pacific Yew (*Taxus brevifolia*);
- 2.2.5 Douglas Fir (*Pseudotsuga menziesii*);
- 2.2.6 Grand Fir (*Abies grandis*);
- 2.2.7 Big Leaf Maple (*Acer macrophyllum*);
- 2.2.8 Sitka Spruce (*Picea sitchensis*);
- 2.2.9 Western Red Cedar (*Thuja plicata*);
- 2.2.10 Shore / Contorta Pine (*Pinus contorta*);
- 2.2.11 any Tree with evidence of a nest used by:
 - i. Raptors as defined in the *Wildlife Act*, R.S.B.C. 1996. C. 488;
 - ii. Osprey; or
 - iii. A Heron colony.
- 2.2.12 any Tree growing on Town-owned property;
- 2.2.13 any Replacement Tree;
- 2.2.14 any Tree planted or retained as a requirement of a subdivision permit, development permit or building permit;
- 2.2.15 any Tree having a diameter greater than 30 centimeters D.B.H.; and
- 2.2.16 any Tree protected by a restrictive covenant.

SECTION 3: AUTHORITY

Director's Discretion

- 3.1 The Director may do any of the following:
 - 3.1.1 refuse to issue a Tree Permit;
 - 3.1.2 issue a Tree Permit subject to conditions;

- 3.1.3 issue a Tree Permit to allow a tree or trees to be Altered, Pruned or Cut;
 - 3.1.4 issue a Tree Permit to regulate activities within the Protected Root Zone during construction;
 - 3.1.5 require that the Alteration, Cutting and Pruning of Trees be carried out under the supervision of a Certified Arborist; and
 - 3.1.6 require that Trees be treated in accordance with sound arboricultural practices as an alternative to the removal of Protected Trees.
- 3.2 The Director may revoke a Tree Permit after written notice to the Permit holder if:
- 3.2.1 there is a contravention of any condition under which the Permit was issued;
 - 3.2.2 the Permit was issued in error; or
 - 3.2.3 the Permit was issued based on inaccurate, incomplete, misleading or erroneous information.

Inspections and Assessments

- 3.3 The Director, the Bylaw Enforcement Officer or any other Town employee authorized by the Director or the Bylaw Enforcement Officer may enter any property at any reasonable time for the purpose of inspecting and assessing Trees to ascertain if there is compliance with:
- 3.3.1 the provisions of this Bylaw; or
 - 3.3.2 any condition of an approved Tree Permit.
- 3.4 No person shall prevent the Director, or any Town employee authorized by the Director from carrying out a lawful inspection pursuant to this Bylaw.

Orders

- 3.5 The Director, the Bylaw Enforcement Officer or any other Town employee authorized by the Director or the Bylaw Enforcement Officer may order or direct any person to do any one or more of the following:
- 3.5.1 discontinue or refrain from proceeding with any work that is in contravention of this Bylaw;
 - 3.5.2 carry out any work or do anything to bring any land into conformity with this Bylaw;
 - 3.5.3 discontinue doing anything that is in contravention of any term or condition of a Tree Permit, a tree plan or any other plan showing Trees which was approved in conjunction with or forms part of a development permit or a building permit; and

- 3.5.4 carry out any work or do anything to bring land into conformity with any terms or conditions of a Tree Permit, a tree plan or any other plan showing Trees which was approved in conjunction with or forms part of a development permit or a building permit.

Hazardous Trees

- 3.6 Owners of a Parcel shall cause all Trees on that property to be Pruned or Cut if the Director considers that the Trees are:
- i. a hazard to the safety of persons as determined by a Certified Arborist;
 - ii. likely to damage public property; or
 - iii. seriously inconveniencing the public.
- 3.7 The Director may notify the Owner of a Parcel that the Town will take, at the Owner's expense, the action required under subsection 3.6 if the Owner does not take that action within five days of receiving the notice.
- 3.8 The Town's permanent or contracted employees may enter a Parcel and undertake, at the Owner's expense, the work referred to in subsection 3.6.

SECTION 4: PROHIBITIONS

General

- 4.1 No person shall carry out any of the following activities without first obtaining a Tree Permit issued by the Town for that purpose:
- 4.1.1 Cut, Prune, Alter or Damage any Protected Tree; including, but not limited to:
- i. remove bark from a Tree;
 - ii. dent, gouge, damage, or affix anything to the Branches or the trunk of a Tree;
 - iii. change the drainage characteristics within the Drip Line of a Tree.
- 4.1.2 any of the following inside of a Protected Root Zone:
- i. Cut or Damage the roots of the Tree growing inside its Protected Root Zone;
 - ii. undermine a Tree's roots growing within its Protected Root Zone;
 - iii. remove soil from a Protected Root Zone;
 - iv. place fill, building materials, asphalt or a building or structure, or storing or stockpiling of organic material within a Protected Root Zone;
 - v. deposit concrete, washout or other liquid or chemical substances harmful to the health of a Tree, on a Protected Root Zone;
 - vi. operate trucks, backhoes, excavators or other heavy equipment within a Protected Root Zone;
 - vii. blast operations within a Protected Root Zone;
 - viii. blast operations outside of a Protected Root Zone that would Damage roots or disturb soil inside a Protected Root Zone;

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- 4.2 A person must not Cut a Tree shown as “to be retained” on a plan attached to a development permit, development variance permit, building permit, rezoning application or subdivision application.

Steep Slopes

- 4.3 No person shall do the following without first obtaining a Tree Permit:
- 4.3.1 Alter or Cut any Tree growing on a Steep Slope; or
 - 4.3.2 remove stumps and roots of any Trees on a Steep Slope.

Watercourses

- 4.4 No person shall Cut or Alter a Tree within 30 meters of a Watercourse without a Tree Permit.

Exemptions

- 4.5 This Bylaw does not apply to:
- 4.5.1 a Tree Permit is not required under this Bylaw if the tree is not a Protected Tree;
 - 4.5.2 Trees on Town owned property or highways that are Altered, Cut or Damaged by the Town or its authorized agents;
 - 4.5.3 Protected Trees that are Altered, Cut or Damaged pursuant to s. 20 of the *Hydro and Power Authority Act*, R.S.B.C. 1996, c. 212, as amended from time to time, or s. 103 of the *Oil and Gas Activities Act*, SBC 2008, c 36, as amended from time to time;
 - 4.5.4 Trees described in s. 50 (1) (a), (b) and (c) of the *Community Charter*;
 - 4.5.5 Cutting of a Branch of a Protected Tree that is less than 10 centimeters in diameter;
 - 4.5.6 Pruning of a Protected Tree if completed by a Certified Arborist.

Emergency Removal

- 4.6 Emergency Removal:
- 4.6.1 an Owner may Alter or Cut a Protected Tree or Branch of a Protected Tree that is prohibited from removal under this Bylaw, if the Protected Tree or Branch:
 - i. has been severely damaged within the preceding 24-hour period; and
 - ii. is in imminent danger of injuring individuals or property.
 - 4.6.2 following the Alteration or Cutting of a Protected Tree or Branch under subsection 4.6.1, an Owner must:
 - i. contact the Director within one Business Day of the Alteration or Cutting; and

- ii. provide photographic documentation demonstrating the necessity for Alteration or Cutting.

SECTION 5: TREE PERMITS

Requirement for a Permit

- 5.1 A person shall not Cut or Alter and shall not cause or permit the Cutting or Alteration of a Protected Tree without first obtaining a Tree Permit.
- 5.2 A person must obtain a permit to undertake any of the activities listed in sections 4.1 to 4.4.

Applications

- 5.3 Application for a Tree Permit shall be made to the Director and must include all of the following:
 - 5.3.1 the location and D.B.H. measurements of all Protected Trees on a Parcel measured from the highest point at which the trunk of the Protected Tree meets the ground;
 - 5.3.2 a site plan including:
 - i. the position of all Trees and structures located upon the relevant parcel;
 - ii. the location, species, Protected Root Zones, and diameter of the Trees being proposed to Cut, Prune or Altered;
 - iii. the location, species, and Protected Root Zones of all Protected Trees which may be affected by the Damaging activities;
 - iv. the location of proposed construction, excavation, and blasting activities in relation to all Trees on the Parcel; and
 - v. the purpose for which the Tree or Trees is proposed to be Altered or Cut.
 - 5.3.3 the signature(s) of the Owner(s) of the lot or Parcel where the Tree is located, or by a person authorized in writing by the Owner(s) to act as their agent.
 - 5.3.4 all reports, surveys, checklists, letters and other information required under this Bylaw or as required by the Director which may include a report prepared by a Certified Arborist including:
 - i. relevant information including, but not limited to, surveyed location, species, size and condition of the subject Tree or Trees;
 - ii. the reason for any proposed removal of a Tree or Trees;
 - iii. the recommended Tree protection and mitigation measures;
 - iv. a Replacement Tree strategy.
 - 5.3.5 any security required under this Bylaw; and
 - 5.3.6 payment of the fees required under sections 5.7 to 5.10 of this Bylaw.
- 5.4 an Applicant for a Tree Permit must flag each Tree proposed to be Altered, Pruned or Cut;

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- 5.5 If the Tree Permit application is made by the Owner of a strata or bareland strata Parcel for a Tree located on common property, a letter of approval from the strata corporation with the signatures of three current executives must accompany the application.
- 5.6 If the Tree Permit is for the removal or Pruning of a Boundary Tree or Trees, a signed letter from the adjacent Owner(s) consenting to the proposed removal or Pruning must accompany the application.
- 5.7 Every application for a Tree Permit pursuant to Steep Slopes shall:
- 5.7.1 be accompanied by a report prepared by a Qualified Geotechnical Engineer, at the Applicant's expense, stating that the proposed Tree removal will not create a danger from flooding, erosion, landslip or avalanche;
 - 5.7.2 if the report of the Qualified Geotechnical Engineer requires the construction of works necessary, no Tree Permit shall be issued unless the Applicant provides to the Town a surety deposit in the amount of 120% of the cost of the works as estimated by the Qualified Geotechnical Engineer;
 - 5.7.3 the Applicant shall enter into an agreement with the Town with respect to any security required;
 - 5.7.4 the Applicant shall be responsible for, and at their own expense execute all work required in the Qualified Geotechnical Engineer's report to ensure the stability of the Steep Slope;
 - 5.7.5 upon completion of the required works and certification of the geotechnical engineer that the works satisfy the requirements to maintain the stability of the Steep Slope, the surety deposit shall be released;
 - 5.7.6 the works shall be completed within the period of time specified on the Tree Permit. Should the works not be finalized within the stated period of time, the Town may have the works completed at the Applicant's expense using the surety deposit.

Fees and Deposits

- 5.8 An application for a Tree Permit shall be accompanied by the fee as prescribed in the *Fees and Charges Bylaw No. 958, 2016*, as amended from time to time, for either of the following:
- 5.8.1 regular processing; or
 - 5.8.2 priority processing.
- 5.9 A re-inspection fee may be applied if the Town's inspector is required to return after the first assessment. No further assessment will be conducted until the re-inspection fee has been paid in full.
- 5.10 The Applicant for a Tree Permit may be required to provide to the Town, prior to issuance of a Tree Permit, security in the amount of 120% of the total cost of the purchase, planting and one year of maintenance of the required number of Replacement Trees.

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- 5.11 A security provided in accordance with section 5 shall be refunded to the Applicant when the Replacement Tree purchase, planting and maintenance requirements have been carried out to the satisfaction of the Director.

Conditions

- 5.12 The works must be completed within the period of time specified on the Tree Permit;
- 5.13 The Director may specify, as a condition of a Tree Permit, the arboricultural practices that must be followed in connection with the activity authorized under the Tree Permit.
- 5.14 The holder of a Tree Permit issued for construction shall comply with all the following conditions:
- 5.14.1 at the Director's discretion before excavation, blasting, construction or other Tree-Damaging activity is carried out on the land to which the permit applies, the Permit holder must install tree protection as illustrated in the *Subdivision and Development Servicing Bylaw No. 985, 2017* supplementary drawing VRSD-LI, as amended from time to time.
- 5.14.2 the Tree Permit holder shall continuously maintain the fence or other protective measure until the completion of the work proposed to be carried out on the land to which the Tree Permit applies.
- 5.14.3 the Tree Permit holder shall take protective measures approved by the Director to separate that land from the remainder of the Protected Root Zone of a Tree to which the Tree Permit applies.
- 5.15 If Protected Tree roots are Cut by excavation:
- 5.15.1 The Tree Permit holder shall engage a Certified Arborist to:
- i. provide a report advising of the Tree mortality;
 - ii. immediately wrap the Cut roots that are still attached to the Tree in a root curtain of wire mesh lined with burlap supported by posts; and
 - iii. continuously keep the root curtain of wire mesh and burlap moist throughout the Tree Permit holder's construction process.
- 5.16 All Tree Permits expire after 12 months from the date of issuance.

Replacement Trees

- 5.17 For each one Protected Tree removed by a Tree Permit holder, two Replacement Trees shall be planted.
- 5.18 Every Replacement Tree must be:
- 5.18.1 of a species and in a location authorized by the Director, in accordance with accepted arboricultural practices and shall be maintained according to the most current edition of Canadian Landscape Standard in place at the time of planting;

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- 5.18.2 where a Tree for which a Replacement Tree is required is a Protected Tree species, the Replacement Tree must be of the same species, or as approved by the Director;
- 5.18.3 planted:
 - i. within one (1) year of Tree Permit issuance, or
 - ii. if required as the result of a Development Permit, prior to the Occupancy Permit being issued, unless extension period has been applied for and granted by the Director;
- 5.18.4 maintained in good health.
- 5.19 The Director will inspect Replacement Trees after the one (1) year period to confirm state of health acceptable to the Town. If the health is determined to be unacceptable, at the Director's discretion replanting will be required, and the maintenance period extended by one (1) year.
- 5.20 At the Director's discretion, a Permit holder may provide and/or plant Replacement Trees on Town property. Such Replacement Trees may be larger than prescribed at the Director's discretion.
- 5.21 If there is insufficient area on a Parcel to accommodate the required Replacement Trees, or if the quantity of Replacement Trees cannot be accommodated on the Parcel, a Permit holder may submit a request to the Director to instead pay to the Town a fee for each Replacement Tree required to be replanted.

Considerations

- 5.22 The Director may issue a Tree Permit authorizing the Cutting, Pruning or removal of a Protected Tree, or any other activity that would otherwise be prohibited by definition of a Protected Tree, for one or more of the following reasons:
 - 5.22.1 the Tree, due to disease decay, dieback or other pathological conditions is in an advanced and irreversible state of decline as confirmed by a Certified Arborist;
 - 5.22.2 the Tree is deemed hazardous, in writing, by a Certified Arborist;
 - 5.22.3 where the Owner of a Protected Tree submits an arborist report which documents that the Protected Tree, by virtue of its size and species is inappropriate for its location and includes reasons that it is deemed to be inappropriate to the satisfaction of the Director;
 - 5.22.4 to eliminate a hazard caused by interference with utility;
 - 5.22.5 to eliminate a situation where pressure or penetration from Tree growth above or below ground is causing Damage to a building or part thereof, or to a significant structure, and there is no other reasonable solution that would not impose an undue hardship;
 - 5.22.6 a Certified Arborist confirms in writing that the proposed Pruning will benefit the Tree;
 - 5.22.7 Trees have been approved for removal as part of a development permit, a street construction permit, or building permit.

Trees on Parcels Abutting Town-owned Land

5.22.8 Pruning for aesthetic reasons may be performed by an Owner whose Parcel abuts Town-owned land with permission from the Director. This Pruning must be carried out by a Certified Arborist, in accordance with Canadian Landscape Standards (current edition).

SECTION 6: RIGHT OF APPEAL

6.1 The Owner a Parcel that is subjected to a decision of the Director to grant or refuse a Tree Permit, or to impose conditions on the granting of a Tree Permit is entitled to apply to Council to have the decision reconsidered.

6.2 An application for reconsideration shall be made in writing to Council.

6.3 There is no charge for an application for reconsideration.

SECTION 7: ENFORCEMENT AND PENALTIES

7.1 Any person who:

- i. contravenes or violates any provision of this Bylaw or of any Permit issued under this Bylaw;
- ii. allows any act or thing to be done in contravention or violation of this Bylaw or any Permit issued under this Bylaw;
- iii. fails or neglects to do anything required to be done by this Bylaw or any Permit issued under this Bylaw,

commits an offence and is liable on summary conviction pursuant to the *Offence Act* of a fine of not less than \$1,000 and not more than \$50,000.

7.2 Where one or more Protected Tree is Cut, Altered or Damaged, other than as authorized by this Bylaw, or more than one Protected Tree is not replaced or maintained in accordance with a Permit issued under this Bylaw, a separate offence is committed in respect of each Protected Tree.

7.3 Each day that a contravention of a provision of this Bylaw continues is a separate offence.

7.4 This Bylaw may be enforced by issuing of a ticket for contravention in accordance with the *Municipal Ticket Information Bylaw No. 643, 2007*.

7.5 The penalties imposed under this section are in addition to and not in substitution for any other penalty or remedy that may be imposed pursuant to this Bylaw, other Town bylaws or otherwise by law.

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READ A FIRST TIME THIS 1st DAY OF FEBRUARY, 2022.

READ A SECOND TIME THIS 1st DAY OF FEBRUARY 2022.

READ A THIRD TIME THIS 1st DAY OF FEBRUARY, 2022.

ADOPTED BY COUNCIL, SIGNED BY THE MAYOR AND THE CORPORATE OFFICER AND SEALED WITH THE SEAL OF THE TOWN OF VIEW ROYAL THIS 15th DAY OF FEBRUARY, 2022.

MAYOR

CORPORATE OFFICER